

The Honorable Karen A. Overstreet  
Chapter 13  
Hearing Date: May 5, 2010  
Hearing Time: 9:30 AM  
Hearing Location: US Courthouse, Seattle, WA  
Response Due: April 28, 2010

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE:

Rodolfo M Masangkay and Asiatica E  
Masangkay,

Debtor(s).

Case No. 09-13671 KAO

Chapter: 13

DEBTORS' MOTION TO  
TURNOVER PROPERTY HELD BY  
BANK OF AMERICA  
WITH NOTICE OF HEARING AND  
PROOF OF SERVICE

PLEASE TAKE NOTICE that Debtors' Motion for Turnover of Property IS SET FOR  
HEARING as follows:

JUDGE:	The Honorable Karen A. Overstreet
PLACE:	United States Bankruptcy Court, 700 Stewart Street, Room 7206, Seattle, WA 98101
DATE:	May 5, 2010
TIME:	9:30 a.m.
RESPONSE DATE:	April 28, 2010

**IF YOU OPPOSE THE MOTION**, you must file your written response with the Court  
Clerk and deliver copies on the undersigned no later than the response date, which is **April 28,**  
**2010.**

1 If no response is timely filed and served, the Court may, in its discretion, grant the  
2 motion prior to the hearing, without further notice, and strike the hearing. Objections not on file  
3 and served as set forth may be deemed waived.

4 DATED this 11th day of March, 2010.

5 SEATTLE DEBT LAW, LLC

6  
7 By: /s/ Christina Latta Henry  
8 Christina Latta Henry, WSBA 31273  
9 Attorneys for Debtors

10 MOTION

11 COMES NOW Rodolfo M Masangkay and Asiatica E Masangkay (“Debtors”) by and  
12 through their attorneys, Christina Latta Henry and Seattle Debt Law, LLC, and hereby move the  
13 Court for an order turning over the funds disbursed to Bank of America (“BOA”) by the Chapter  
14 13 Bankruptcy Court. Bank of America preliminarily approved a loan modification for the  
15 Debtors on September 28, 2009 that agreed to tack on the arrearage owing on the Debtors’ loan  
16 to the back of the mortgage and only required monthly mortgage payments going forward in the  
17 amount of \$1,714.91 a month. On September 30, 2009, two days after Bank of America  
18 approved the Debtors for a loan modification, the Chapter 13 Trustee disbursed \$13,290.14 to  
19 Bank of America. This motion is being brought pursuant to 11 USC §542 for turnover of the  
20 funds sent by the Chapter 13 Trustee for payment on arrears that were not required under the  
21 loan modification agreement, the Declaration of Counsel in support of this motion and the  
22 records and pleadings filed herein.  
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PROOF OF SERVICE

I, Christine A. Turner, under penalty of perjury, declare that on the dates indicated below, I caused a copy of the *Debtors' Note, Motion for Turnover of Property, Declaration of Counsel in Support of Same and Proposed Order* to be served on the parties listed below via ECF and/or United States First Class Mail.

On March 10<sup>th</sup>, 2010 via ECF

K. Michael Fitzgerald courtmail@seattlech13.com

US Trustee [USTPRegion18.SE.ECF@usdoj.gov](mailto:USTPRegion18.SE.ECF@usdoj.gov)

Daniel L. Hembree [dhembree@bwmlegal.com](mailto:dhembree@bwmlegal.com)

Thomas S. Linde [tomlinde@schweetlaw.com](mailto:tomlinde@schweetlaw.com)

On March 11, 2010 I caused a copy to be served to the parties listed to the parties listed below via United States Certified Mail:

**Brian T. Moynihan**  
Chief Executive Officer and President  
Bank of America Corporate Center  
100 North Tryon Street  
Charlotte, North Carolina 28255

On March 11<sup>th</sup>, 2010 I caused a copy to be served to the parties listed on the USBC Matrix extracted from PACER (*see Exhibit C hereto*) and to the parties listed below via United States First Class Mail:

Key Bank National Association  
720 Olive Way  
Seattle, WA 98101

LVNV Funding LLC  
c/o Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

1 GE Money Bank  
2 Recovery Management Systems Corporation  
3 c/o Ramesh Singh  
4 25 S.E. Second Avenue, Suite 1120  
5 Miami, FL 33131-1605

6 I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE  
7 OF WASHINGTON THAT THE FOREGOING STATEMENT IS BOTH TRUE AND  
8 CORRECT.

9 Executed this 11th day of March 2010 at Seattle, Washington.

10 /s/ Christina L. Henry  
11 Christina L. Henry  
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